

AMENDED IN SENATE JANUARY 5, 2004

AMENDED IN SENATE MARCH 13, 2003

SENATE BILL

No. 136

Introduced by Senator Figueroa

February 5, 2003

~~An act to amend Section 9855.2 of the Business and Professions Code, to add Section 1102.19 to the Civil Code, and to amend Section 12762 of the Insurance Code, relating to contracts. An act to amend Sections 4984.7 and 4996.3 of the Business and Professions Code, relating to professions and vocations, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 136, as amended, Figueroa. ~~Contracts~~—Marriage and family therapists: clinical social workers: examinations.

Existing law provides for licensing and regulation of marriage and family therapists and clinical social workers by the Board of Behavioral Sciences. Existing law imposes certain examination fees for persons seeking to become licensed in these professions, including fees for written and oral examinations.

This bill would delete the requirement for an oral examination and instead require an applicant who is successful in passing the written examination to also take a written clinical vignette examination. The bill would establish the fee for taking the written clinical vignette examination at \$100. The bill would authorize the board to adjust all examination fees for these professions beginning on January 1, 2005, to reflect actual costs incurred in holding the examinations. The bill would make other related changes.

This bill would declare that it is to take effect immediately as an urgency statute.

~~(1) Existing law, the Electronic and Appliance Repair Dealer Registration Law, regulates consumer warranties and the activities of service contractors. Existing law defines a “service contract” to mean a contract in writing to perform services relating to the maintenance, replacement, or repair of certain electronic and appliance items. Existing law requires a service contract seller to meet specified requirements in order to issue, sell, or offer for sale a service contract. Existing law provides that a violation of these provisions is a crime.~~

~~This bill would additionally require a service contract seller who provides a guarantee or warranty in conjunction with a service contract to disclose to the customer, in writing, the nature and extent of the guarantee or warranty and a clear explanation of coverage of the guarantee or warranty. Because this bill would place additional requirements on service contract sellers, the violation of which would be a crime, the bill would impose a state-mandated local program.~~

~~(2) Existing law requires that a seller of residential real property disclose specified attributes of that property prior to the transfer of title and provides a form for this purpose. Existing law also requires an owner of residential real property who knows of a release of an illegal controlled substance on the property to make a specified disclosure.~~

~~This bill would require a licensed real estate broker who is acting as an agent for a buyer to fully explain to the buyer all the restrictions, exclusions, and limitations in a home protection contract, when such a contract is offered as part of a residential real property transaction, as defined. The bill would provide for a civil penalty of \$5,000 for a violation of its provisions.~~

~~(3) Existing law requires that home protection contracts set forth, in clear and conspicuous terms, all exclusions and limitations respecting the extent of coverage and all limitations respecting the performance of services, among other information.~~

~~This bill would provide, in connection with these requirements, that home protection contracts set forth the services that may not be performed due to improper previous repairs, improper installation, design deficiency, or preexisting conditions, and any restrictions on the companies that may be used for the performance of services.~~

~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.~~

~~Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: ~~majority~~ ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 9855.2 of the Business and Professions~~
2 ~~SECTION 1. Section 4984.7 of the Business and Professions~~
3 ~~Code is amended to read:~~
4 4984.7. The amount of the fees prescribed by this chapter that
5 relate to licensing of persons to engage in the business of marriage
6 and family therapy is that established by the following schedule:
7 (a) The fee for applications for examination received on or after
8 January 1, 1987, shall be one hundred dollars (\$100).
9 (b) The fee for issuance of the initial license shall be a
10 maximum of one hundred eighty dollars (\$180).
11 (c) For those persons whose license expires on or after January
12 1, 1996, the renewal fee shall be a maximum of one hundred eighty
13 dollars (\$180).
14 (d) The delinquency fee shall be ninety dollars (\$90). Any
15 person who permits his or her license to become delinquent may
16 have it restored only upon the payment of all fees that he or she
17 would have paid if the license had not become delinquent, plus the
18 payment of any and all outstanding delinquency fees.
19 (e) For those persons registering as interns on or after January
20 1, 1996, the registration fee shall be ~~ninety~~ *seventy-five* dollars
21 ~~(\$90)~~ (\$75).
22 (f) For those persons whose registration as an intern expires on
23 or after January 1, 1996, the renewal fee shall be seventy-five
24 dollars (\$75).
25 (g) The *standard* written examination fee shall be one hundred
26 dollars (\$100). After successfully passing the *standard* written
27 examination, each applicant for ~~oral~~ *the clinical vignette* written
28 examination shall submit ~~two~~ *one* hundred dollars ~~(\$200)~~ (\$100).
29 Applicants failing to appear for any examination, once having
30 been scheduled, shall forfeit any examination fees paid. *Effective*
31 *January 1, 2005, the examination fees for the standard written and*

1 *clinical vignette written examinations shall be based on the actual*
2 *cost to the board of developing, purchasing, and grading of each*
3 *examination, plus the actual cost to the board of administering*
4 *each examination. The written examination fees shall be adjusted*
5 *periodically by regulation to reflect the actual costs incurred by the*
6 *board.*

7 (h) An applicant who fails any *standard or clinical vignette*
8 ~~written or oral~~ examination may within one year from the
9 notification date of that failure, retake the examination as regularly
10 scheduled without further application upon payment of one
11 hundred dollars (\$100) for the *standard* written reexamination and
12 ~~two one hundred dollars (\$200)~~ (\$100) for the ~~oral~~ *clinical*
13 *vignette* reexamination. Thereafter, the applicant shall not be
14 eligible for further examination until he or she files a new
15 application, meets all current requirements, and pays all fees
16 required. Persons failing to appear for the reexamination, once
17 having been scheduled, shall forfeit any reexamination fees paid.

18 (i) The fee for rescoring a *any* written examination shall be
19 twenty dollars (\$20). ~~The fee for appeal of an oral examination~~
20 ~~shall be one hundred dollars (\$100).~~

21 (j) The fee for issuance of any replacement registration,
22 license, or certificate shall be twenty dollars (\$20).

23 (k) The fee for issuance of a certificate or letter of good
24 standing shall be twenty-five dollars (\$25).

25 With regard to all license, examination, and other fees, the board
26 shall establish fee amounts at or below the maximum amounts
27 specified in this chapter.

28 *SEC. 2. Section 4996.3 of the Business and Professions Code*
29 *is amended to read:*

30 4996.3. (a) Each application for *the standard* written
31 examination received on or after January 1, 1999, shall be
32 accompanied by an application fee of one hundred dollars (\$100)
33 and a fee of up to one hundred fifty dollars (\$150), including the
34 *standard written* examination fee and related administrative costs
35 for the *standard* written examination. After successfully passing
36 the *standard* written examination, each applicant shall submit ~~two~~
37 ~~one hundred dollars (\$200)~~ (\$100) for the ~~oral~~ *clinical vignette*
38 *written* examination. Applicants failing to appear for any
39 examination, once having been scheduled, shall forfeit any
40 examination fees paid. *Effective January 1, 2005, the examination*

fees for the standard written and clinical vignette written examinations shall be based on the actual cost to the board of developing, purchasing, and grading of each examination, plus the actual cost to the board of administering each examination. The written examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the board.

(b) The fee for rescoring ~~a~~ any written examination shall be twenty dollars (\$20). ~~The fee for an appeal of an oral examination shall be one hundred dollars (\$100).~~

(c) The fee for issuance of the initial license shall be a maximum of one hundred fifty-five dollars (\$155).

(d) With regard to all license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that changes to the examination process for licensees of the Board of Behavioral Sciences may be implemented at the earliest possible time, it is necessary for this act to take effect immediately.

Code is amended to read:

~~9855.2. (a) A service contract seller shall not issue, sell, or offer for sale a service contract unless he or she complies with one of the following requirements:~~

~~(1) Files with the director the most recent annual report on Form 10-K required by the Securities and Exchange Commission, reflecting a net worth greater than the sum of the deferred revenues from service contracts in force. If the service contractor is a foreign corporation that files a comparable audited financial statement with its home government or with the United States government, the director may deem that statement an acceptable substitute for Form 10-K.~~

~~(2) Obtains a service contract reimbursement insurance policy.~~

~~(3) Sells service contracts that are administered by a service contract administrator who has obtained a service contract reimbursement insurance policy covering the seller's service contracts.~~

~~(4) Maintains and annually verifies to the director a funded account held in escrow equal to a minimum of 25 percent of the deferred revenues from the service contracts in force.~~

~~(b) A service contract administrator shall not administer service contracts sold in this state unless a service contract reimbursement insurance policy covering these service contracts has been obtained.~~

~~(c) A service contract seller who provides a “guarantee” or “warranty” in conjunction with a service contract shall disclose the following to the customer in writing:~~

~~(1) The nature and extent of the guarantee or warranty.~~

~~(2) A clear explanation in writing of what will and will not be covered under the guarantee or warranty.~~

~~(d) This section shall not affect the ability of the director to further define or clarify the requirements regarding a guarantee or warranty provided by a service contract seller.~~

~~SEC. 2.—Section 1102.19 is added to the Civil Code, to read:~~

~~1102.19.—(a) If a home protection contract is offered to a buyer as part of a transaction subject to this article, and a licensed real estate broker is acting as an agent for the buyer, that broker shall fully explain to the buyer all the restrictions, exclusions, and limitations regarding the home protection contract prior to the buyer entering into the contract.~~

~~(b) If a real estate broker fails to fulfill the requirements of subdivision (a), the broker shall be liable for a civil penalty not to exceed five thousand dollars (\$5,000) for each violation.~~

~~SEC. 3.—Section 12762 of the Insurance Code is amended to read:~~

~~12762.—(a) A home protection contract shall specify, in clear and conspicuous terms, the following information:~~

~~(1) Each of the appliances, systems and components covered by the contract.~~

~~(2) A clear explanation of all exclusions and limitations respecting the extent of coverage, including, but not limited to, the following:~~

~~(A) The services that may not be performed due to improper previous repairs or improper installation of appliances, systems, or components covered under the contract.~~

~~(B) The services that may not be performed due to design deficiency or preexisting conditions regarding appliances, systems, or components covered under the contract.~~

~~(3) The period during which the contract will remain in effect, the protection contract fee and the renewal terms, if any.~~

~~(4) With respect to the performance of services by the home protection company, all of the following:~~

~~(A) The services to be performed by the company and the terms and conditions of such performance.~~

~~(B) The service fee or fees, if any, to be charged for such services.~~

~~(C) All limitations respecting the performance of services, including any restrictions as to the time period when or geographical area within which services may be requested or will be performed, or the companies that may be used for the performance of services.~~

~~(D) A statement that services will be performed upon telephonic request therefor to the company, without any requirement that claim forms or applications be filed prior to the rendition of service.~~

~~(E) A representation that services will be initiated by or under the direction of the company within 48 hours after a request is made for the services by any person, or agent of any person, entitled to make the request under the contract.~~

~~(b) The commissioner may adopt, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any reasonable regulations that may be necessary to make more specific the provisions of this section. Those regulations may also establish such other contract form standards and requirements as the commissioner may deem necessary and appropriate in the public interest. However, this section does not authorize the commissioner to specify those appliances, systems, or components which must be covered by a home protection contract except to the extent necessary to guarantee the equity of the exclusions from coverage offered or provided under a contract, or to the extent necessary to avoid illusory coverage due to the nature or extent of exclusions from the contract.~~

~~SEC. 4.—No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because~~

1 ~~the only costs that may be incurred by a local agency or school~~
2 ~~district will be incurred because this act creates a new crime or~~
3 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
4 ~~for a crime or infraction, within the meaning of Section 17556 of~~
5 ~~the Government Code, or changes the definition of a crime within~~
6 ~~the meaning of Section 6 of Article XIII B of the California~~
7 ~~Constitution.~~

